

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TERRENCE FORTE,

Plaintiff,

COMPLAINT
15 CV 3302

- against -

JAMES FAMIANO and EMRAH ATES,
employees of the New York City Police
Department,

Defendants.

Jury Trial Demanded

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Terrence Forte, by his attorney, The Law Office of Matthew Flamm, alleges the following, upon information and belief, as his Complaint:

Nature of the Action

1. This civil rights action arises from the June 14, 2012 unlawful stop, detention, and search of plaintiff by the defendant New York City Police Officers. Plaintiff seeks damages under 42 U.S.C. §1983 for violation of his civil rights.

Jurisdiction and Venue

2. This action arises under the United States Constitution and 42 U.S.C. §1983. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1331 and §1343(3).

3. Venue is proper in the Eastern District of New York because events giving rise to plaintiff's claims occurred therein.

Parties

4. Plaintiff TERRENCE FORTE is a citizen of the United States of America residing in the State and City of New York, County of Kings.

5. The CITY OF NEW YORK is a municipal corporation duly incorporated and existing under the laws of New York State. Pursuant to its Charter, New York City has established and maintains a Department of Police as a

constituent department or agency. At all times relevant, the City of New York employed the two defendants identified below.

6. Defendants JAMES FAMIANO, Tax Registry No. 936568, and EMRAH ATES, Tax Registry No. 942967, were at all times relevant acting within the scope of their employment by the New York City Police Department. Upon information and belief, on June 14, 2012, they were assigned to the Brooklyn North Narcotics Division.

7. At all times relevant, the defendants were acting under color of state law.

8. The defendants are liable for directly participating in the acts described herein or for failing to intervene to prevent, end, or truthfully report the unlawful conduct to which Mr. Forte was subjected despite having a reasonable opportunity to do so. They are sued in their individual capacity.

Facts Underlying
Plaintiff's Claims for Relief

9. On June 14, 2012 at around 10:00 p.m. at and around plaintiff's home at 488 Elton Street in Brooklyn, New York, Terrence Forte was unlawfully stopped, arrested, and searched by the defendants.

10. Mr. Forte was returning home in his automobile and was about to pull into his driveway to park.

11. The defendants drove up quickly behind Mr. Forte in an unmarked white van.

12. The van stopped close to Mr. Forte's vehicle, preventing plaintiff from entering his driveway.

13. Mr. Forte then drove his van forward and defendants' van passed, then stopped, blocking traffic, and defendants got out and came quickly towards Mr. Forte and his vehicle.

14. Defendants aggressively ordered plaintiff from his vehicle, and one of them opened the door and held Mr. Forte while plaintiff stepped out.

15. Defendants forced plaintiff against the side of his van, and defendant Famiano pat-frisked plaintiff and put his hands inside plaintiff's pockets.

16. Defendants asked plaintiff, among other things, whether he had any arrest warrants.

17. After about two and one-half minutes, the defendants returned to the white van, got in, and left.

18. The defendants, despite having a reasonable opportunity to do so, took no action to prevent, end, or truthfully report the unlawful conduct to which Mr. Forte was subjected. They, in fact, did not prepare a stop and frisk report or make memobook entries regarding the abusive and unlawful encounter.

19. The defendants' acts and omissions caused the plaintiff to suffer loss of liberty, fear and the emotional upset from the unlawful conduct to which he was subjected, and deprivation of his constitutional rights, among other injuries.

20. The defendants, at all times relevant, acted intentionally, willfully, maliciously, negligently, and with reckless disregard for and deliberate indifference to Mr. Forte's rights and physical and mental well-being.

FIRST CLAIM FOR RELIEF FOR
VIOLATING PLAINTIFF'S RIGHT TO BE FREE FROM
UNREASONABLE SEARCHES AND SEIZURES UNDER THE FOURTH AND
FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION

21. Plaintiff repeats the allegations of the foregoing paragraphs as though fully stated herein.

22. By the actions described above, the defendants deprived Terrence Forte of his rights secured by the Constitution and laws of the United States in violation of 42 U.S.C. §1983, including plaintiff's right to be free from being stopped, accosted, arrested, and searched without lawful basis.

23. As a consequence thereof, Terrence Forte has been injured.

SECOND CLAIM FOR RELIEF FOR FAILURE TO INTERVENE
TO PREVENT OR END THE VIOLATION OF PLAINTIFF'S CIVIL RIGHTS

24. Plaintiff repeats the foregoing paragraphs as though fully stated here.

25. The defendants failed to intervene to prevent or end the misconduct to which plaintiff was subjected.

26. As a consequence thereof, Terrence Forte has been injured.

Request for Relief

WHEREFORE, Plaintiff respectfully request that judgment be entered that Terrence Forte's rights under the United States Constitution were violated together with:

- (A) Compensatory damages in an amount to be fixed at trial;
- (B) By reason of the wanton, willful and malicious character of the conduct complained of herein, punitive damages in an amount to be fixed at trial;
- (C) An award of the costs and disbursements herein;
- (D) An award of attorney's fees under 42 U.S.C. §1988;
- (E) Such other and further relief as this Court may deem just and proper.

Dated: June 5, 2015
Brooklyn, New York

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